

REMARKS

Claims 1 and 3-7 are now pending in the application. Claim 2 has been canceled. Claims 1, 3 and 4-6 have been amended. The amendments to the claims contained herein are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 1- 5 stand rejected under 35 U.S.C. § 112, second paragraph, as "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." Applicant has amended Claims 1, 3 and 5 and canceled Claim 2 to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant thereby respectfully requests the Examiner to enter these clarifying amendments and withdraw the rejection based on § 112, second paragraph.

REJECTION UNDER 35 U.S.C. § 103

Claims 1 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yorty, U.S. Patent No. 3,554,417, in view of Peters, U.S. Patent No. 3,675,834. Applicant respectfully traverses this rejection.

It is respectfully submitted that in view of Applicant's amendments and arguments stated above, it is believed that this specific rejection has been overcome.

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The Examiner alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the ends of member 13 of Yorty with an interlocking portion to enable adjustment of the length thereof as suggested by buckle 14 of Peters. The buckle 14, as taught by Peters, is incorporated in the device as a method of adjusting the length of the carrying device. The present invention embodies a carrying device of a rigid monolithic design manufactured from a plastic polymer, comprised of fixed proportions forming two loops which can be opened and closed. There is no buckle required to be adjusted once the first end 26 and the second end 22 of the invention are locked together. Yorty teaches of a similarly implemented buckle as Peters, but the buckle is used in the device to adjust the size of the carrying-loop with respect to the hand-loop and the carrying loop does not open. Furthermore, since both Peters and Yorty teach a flexible band-like design, and the present invention is of a rigid pre-formed design, the Applicant respectfully disagrees with the Examiner's characterization that the disclosure in Yorty anticipates or renders obvious, the boss and the boss receiving recess locking mechanism of the present invention. Moreover, there is no motivation or incentive in Yorty or Peters, alone or in combination with any of the other references cited, to arrive at Applicant's invention as claimed. In view of the above remarks, Independent Claims 1 and 6 should be in condition for allowance, and Applicant respectfully requests the Examiner to withdraw the Section 103 rejection to Claims 1 and 6.

Claims 1-6 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over Schneider in view of Richardson et al. Applicant respectfully traverses this rejection.

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It is respectfully submitted that in view of Applicant's amendments and arguments stated above, it is believed that this specific rejection has been overcome. The Examiner alleges that it would have been obvious to one of ordinary skill in the art at the time the invention was made to form hand loop 7 of Schneider with releasably connected ends to enable receipt of the handle loops of bags as suggested by Richardson et al. The device taught in Schneider is specifically designed to carry sacks and bags, such as refuse sacks in a manner not contemplated by Applicants invention. Schneider teaches of carrying open-ended sacks that do not embody loop handles, whereas the entire open end of the sack(s) is fed through one side of the opening. Richardson is similar in function to Applicants invention, used for carrying sacks with handles, but could not be used to carry sacks as contemplated in Schneider. Furthermore, Richardson does not disclose the element of a closed article loop separate from the hand loop where both loops open and close, ergonomically designed to keep the bags closed and balanced under the wrist without interfering with the locking mechanism or the hand of the person carrying the bags. Applicant's invention is specifically designed to carry smaller sacks or bags, that implement handles through which the device is threaded prior to locking.

The test for obviousness in this instance, was properly described in Jones v. Hardy, 727 F.2d 1524, 1530, 220 USPQ 1021, 1025 (Fed. Cir. 1984). Here the court held: "The test under § 103 is not whether an improvement or a use set forth in the patent would have been obvious or non-obvious. The test is whether the claimed invention, considered as a whole, would have been obvious or non-obvious... Failure to consider the claimed invention as a whole is an error of law."

Thus, Applicant believes Claims 1-6, as amended, patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102(b)

Claims 1-6, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Friedman, U.S. Patent No. 3,692,218. Applicant respectfully traverses this rejection.

The Examiner specifically refers to the embodiment of Friedman disclosed in Figures 9-17. Applicant respectfully disagrees with the Examiner's characterization that the disclosure in Friedman anticipates or renders obvious the present invention. Applicants invention discloses a plastic bag holder, embodying a one piece monolithic construction with no hinge components to wear out, designed to ergonomically hold one or more plastic bags closed and balanced below the wrist. Friedman teaches of a device for carrying articles on garment hangers, and is comprised of a hinged design for opening or closing the device but not opening and closing both loops. Furthermore the article carrying portion is separately closed off from the handle portion by a secondary clasp element. Applicant's invention embodies an article carrying portion for the handles of plastic bags, that is defined by opposed shoulder portions, that move into abutting engagement concomitantly when the first and second ends of the handle loop are connected. Thus, Friedman does not teach, disclose or suggest Applicant's claimed, single locking element, which provides for dual closure and opening for both the hand portion and article carrying portion. Moreover, there is no motivation or incentive in Friedman, alone or in combination with any of the other references cited, to arrive at Applicants invention claimed.

Therefore, Independent Claims 1, 5 and 6 should be in condition for allowance. Further, because Claim 2 was canceled, and Claims 3 and 4 depend from independent claim 1, they are at least as limited, are similarly not taught by Friedman, and should also be in condition for allowance. In view of the above remarks, Applicant respectfully requests the Examiner to withdraw the Section 102 rejection to Claims 1-6.

Claims 1-6, stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gans, U.S. Patent No. 5,150,938. Applicant respectfully traverses this rejection.

The Examiner specifically refers to the embodiment of Gans disclosed in figures 7-9. Applicant respectfully disagrees with the Examiners characterization that the disclosure in Gans anticipates or renders obvious the present invention. Gans teaches of a bag grip device, used for carrying one or more plastic bags, but when the free ends of the one piece design are engaged, the article carrying portion is not separate from the handle portion. In addition, the handle portion does not open and close as is now defined in the pending claims. Applicant's invention, embodying the separate strap holding portion from the handle portion when the device is closed, prevents the straps of the bags from traveling apart when the bags are temporarily set down, eliminating interference with the locking mechanism of the hand loop or the hand of the person carrying the bags. Furthermore, Gans discloses a one piece construction of a material that is flexible enough to be opened up 180 degrees, not designed for use of heavy, repeated loads that may damage the integrity of the device over time, whereas Applicants one piece monolithic structure is casted from a durable plastic polymer, with very limited flexibility to allow for insertion of the bag handles and engaging and disengaging the first and second ends. Thus, Gans does not teach,

disclose or suggest Applicant's claimed one piece semi-rigid construction that can be used for heavy bags, which provides for both a separate hand loop and article loop for the loop handles of bags which open and close. Moreover, there is no motivation or incentive in Gans, alone or in combination with any of the other references cited, to arrive at Applicants invention claimed.

Therefore, Independent Claims 1, 5 and 6 should be in condition for allowance. Further, because Claims 2 was cancelled and Claims 3 and 4 depend from independent claim 1, they are at least as limited, are similarly not taught by Gans, and should also be in condition for allowance. In view of the above remarks, Applicant respectfully requests the Examiner to withdraw the Section 102 rejection to Claims 1-6.

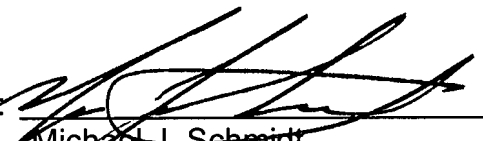
CONCLUSION

All of the stated grounds of rejection have been properly traversed, accommodated or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the

Examiner believes that personal communication will expedite prosecution of this application, he is invited to contact the undersigned at his earliest convenience.

Respectfully submitted,

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By: 
Michael J. Schmidt
Reg. No. 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

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